

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35260

STATE OF IDAHO,	)	2009 Unpublished Opinion No. 435
	)	
Plaintiff-Respondent,	)	Filed: April 22, 2009
	)	
v.	)	Stephen W. Kenyon, Clerk
	)	
WINSTON REESE SEAL,	)	THIS IS AN UNPUBLISHED
	)	OPINION AND SHALL NOT
Defendant-Appellant.	)	BE CITED AS AUTHORITY
	)	

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Appeal from the District Court of the Fifth Judicial District, State of Idaho, Minidoka County. Hon. R. Barry Wood, District Judge.

Order denying motion to correct illegal sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Jason C. Pintler, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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Before LANSING, Chief Judge, PERRY, Judge  
and GRATTON, Judge

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PER CURIAM

Winston Reese Seal was convicted of grand theft, Idaho Code §§ 18-2403, -2407, with a persistent violator sentence enhancement, I.C. § 19-2514. The parties stipulated to recommend a unified twenty-year sentence with five years determinate. At sentencing, the district court agreed to impose the stipulated sentence, but described the sentence as a five-year determinate sentence on the grand theft charge and twenty years, with five years determinate for the persistent violator enhancement, to run concurrently.

Seal subsequently filed an Idaho Criminal Rule 35 motion for correction of the sentence to reflect a single enhanced sentence for grand theft. The court granted the motion by entering an amended judgment correcting the sentence to a single unified sentence of twenty years with

five years determinate for grand theft, inclusive of the persistent violator enhancement. Seal later filed another motion for correction of the sentence, contending that this amended sentence was illegal in that the district court increased the total sentence on the grand theft conviction from five years to twenty years. The district court denied the motion, and Seal appeals. On appeal, Seal continues his assertion that the district court impermissibly increased the sentence for grand theft from five years to twenty years.

Seal's argument is without merit, having been squarely rejected by the Idaho Supreme Court in *Lopez v. State*, 108 Idaho 394, 700 P.2d 16 (1985). The trial court did not increase Seal's sentence but merely corrected the terminology by which the sentence was described in the judgment upon recognizing that the enhancement was not a separate offense but a component of the sentence for grand theft. The corrected sentence as stated in the amended judgment is not only a permissible correction to inaccurate terminology in the original judgment, it also imposes precisely the sentence to which Seal stipulated at sentencing. Therefore, the district court's order denying Seal's motion to correct an allegedly illegal sentence is affirmed.